

AMENDED IN ASSEMBLY APRIL 10, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1512

Introduced by Assembly Member Torrico

February 23, 2007

An act to amend Section 11174.34 of the Penal Code, and to amend Section 10850.1 of add Section 14093.10 to the Welfare and Institutions Code, relating to public social services *Medi-Cal* .

LEGISLATIVE COUNSEL'S DIGEST

AB 1512, as amended, Torrico. ~~Public social services: child welfare. Medi-Cal: foster children.~~

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, and which provides health care services to qualified low-income recipients. The Medi-Cal program is partially governed and funded by federal Medicaid provisions. Under existing law, low-income children in foster care are covered under the Medi-Cal program. Existing law requires the county child welfare agency with the responsibility for the care and placement of the foster child, in consultation with the child's foster caregiver, to determine whether it is in the best interest of the child to enroll in a Medi-Cal managed care plan. In some counties a county organized health system provides Medi-Cal services. Existing law requires the department to establish for Medi-Cal managed care plans urgent disenrollment procedures for foster children in out-of-county placements.

This bill would also require the department to develop urgent disenrollment procedures that require county organized health systems to disenroll foster children who have been placed out of county within

2 working days of that placement in order that they may be enrolled in a Medi-Cal managed care plan in the county of the placement. The bill would require the department and the county organized health systems to perform other related duties.

~~Existing law provides for the coordination and integration of state and local efforts to address fatal child abuse or neglect, and the creation of a body of information to prevent child deaths. Existing law also provides that certain individual records concerning the administration of public social services are confidential, but authorizes members of a multidisciplinary personnel team, as defined, engaged in the prevention, identification, and treatment of child abuse or the abuse of elder or dependent persons, to disclose or exchange this information to one another under prescribed circumstances.~~

~~This bill would make technical, nonsubstantive changes to the law relating to child abuse investigations and the use of confidential information in connection with these investigations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Children and adolescents in foster care suffer serious health,*
- 4 *emotional, and developmental problems. As a group, they suffer*
- 5 *higher rates of serious physical or psychological problems than*
- 6 *other children from the same socioeconomic backgrounds.*
- 7 *(b) Given their overwhelming and complex needs, foster children*
- 8 *require and use health services more than other children do. A*
- 9 *high percentage of foster children require ongoing medical*
- 10 *treatment.*
- 11 *(c) Foster children from counties that use a county organized*
- 12 *health system as their Medi-Cal managed care plan model face*
- 13 *particular barriers to health care.*
- 14 *(d) When a county has a county organized health system,*
- 15 *Medi-Cal recipients in that county, including foster children, must*
- 16 *receive their Medi-Cal services from a provider in the county*
- 17 *organized health system's network.*
- 18 *(e) Foster children currently are unable to disenroll from a*
- 19 *county organized health system in a timely manner following their*

1 *placement in a different county. Until they are disenrolled from*
2 *the county organized health system, they cannot be enrolled in a*
3 *health care plan serving their new county of residence.*

4 *(f) The inability to effect timely disenrollment from county*
5 *organized health systems interferes with foster children's access*
6 *to routine medical care, including some nonemergency mental*
7 *health services, and prescription medications. It also can create*
8 *a barrier to dental care. Lack of access to medical services*
9 *jeopardizes not only foster children's health but also their*
10 *placement.*

11 *(g) This barrier to health care for foster children has existed*
12 *since the county organized health system model was created. It*
13 *was addressed in the March 1998 report by the Institute for*
14 *Research on Women and Families entitled "Code Blue: Health*
15 *Services for Children in Foster Care." Despite the passage of*
16 *nearly a decade since that report was published, the barrier has*
17 *not been removed.*

18 *(h) Eight counties currently have county organized health*
19 *systems: Monterey, Napa, Orange, San Mateo, Santa Barbara,*
20 *Santa Cruz, Solano, and Yolo. As of July 1, 2006, 28 percent of*
21 *child welfare-supervised foster children from county organized*
22 *health system counties, nearly 1,700 children, were placed out of*
23 *the county. Recent data regarding probation supervised foster*
24 *children are not available.*

25 *(i) In recent years, other counties have expressed interest in*
26 *adopting the county organized health system model, and there has*
27 *been a proposal to expand existing county organized health systems*
28 *to include other counties, including Lake, Marin, Mendocino, San*
29 *Benito, San Luis Obispo, Sonoma, and Ventura.*

30 *SEC. 2. Section 14093.10 is added to the Welfare and*
31 *Institutions Code, to read:*

32 *14093.10. (a) Whenever a foster child enrolled in a county*
33 *organized health system is placed in an out-of-county placement,*
34 *the county child welfare agency or probation department with*
35 *responsibility for the care and placement of the child shall notify*
36 *the county organized health system of the out-of-county placement.*
37 *This notification shall be made no later than one working day after*
38 *the out-of-county placement begins. Any county organized health*
39 *system receiving this notification shall, within two working days*
40 *of the notification, disenroll the foster child from its system to*

1 *allow the child to enroll in a Medi-Cal managed care plan or to*
2 *receive Medi-Cal services on a fee-for-service basis in the county*
3 *where the child has been placed. Each county organized health*
4 *system shall designate a person or persons responsible for*
5 *receiving and processing notifications of out-of-county placements*
6 *of foster children.*

7 *(b) The department shall establish procedures that provide for*
8 *urgent disenrollment, from county organized health systems, of*
9 *foster children in out-of-county placements within two working*
10 *days of receipt by the department's enrollment contractor or by*
11 *the department, if the department has no enrollment contractor;*
12 *of a request for disenrollment made by the county organized health*
13 *system, the county child welfare services agency or other agency,*
14 *the foster caregiver, or any person authorized to make medical*
15 *decisions on behalf of the foster child.*

16 *(c) The department shall issue all-county letters or similar*
17 *instructions, and thereafter adopt any necessary implementing*
18 *regulations, to implement the urgent disenrollment procedures*
19 *established in subdivision (b).*

20 *(d) No later than February 1, 2008, the department shall*
21 *convene a workgroup comprised of a representative from the State*
22 *Department of Social Services, a public health nurse for foster*
23 *children from a county that has a county organized health system,*
24 *a representative from a county organized health system, a county*
25 *welfare director, a representative from a youth law or advocacy*
26 *organization, one or more current or former foster youth, and*
27 *other relevant stakeholders, as determined by the department. The*
28 *workgroup shall study how best to remove barriers to health care*
29 *for foster children who are in a county with a county organized*
30 *health system, including whether enrollment in a county organized*
31 *health system should continue to be mandatory for foster children*
32 *living in counties with that managed care plan model and whether*
33 *those foster children should be allowed to choose Medi-Cal*
34 *fee-for-service services. The department shall report to the*
35 *Legislature on the workgroup's findings no later than July 1, 2008.*

36 ~~SECTION 1. Section 11174.34 of the Penal Code is amended~~
37 ~~to read:~~

38 ~~11174.34. (a) (1) The purpose of this section shall be to~~
39 ~~coordinate and integrate state and local efforts to address fatal~~

1 ~~child abuse or neglect, and to create a body of information to~~
2 ~~prevent child deaths.~~

3 ~~(2) It is the intent of the Legislature that the California State~~
4 ~~Child Death Review Council, the Department of Justice, the State~~
5 ~~Department of Social Services, the State Department of Health~~
6 ~~Services, and state and local child death review teams shall share~~
7 ~~data and other information necessary from the Department of~~
8 ~~Justice Child Abuse Central Index and Supplemental Homicide~~
9 ~~File, the State Department of Health Services Vital Statistics and~~
10 ~~the Department of Social Services Child Welfare Services/Case~~
11 ~~Management System files to establish accurate information on the~~
12 ~~nature and extent of child abuse or neglect related fatalities in~~
13 ~~California as those documents relate to child fatality cases. Further,~~
14 ~~it is the intent of the Legislature to ensure that records of child~~
15 ~~abuse or neglect related fatalities are entered into the State~~
16 ~~Department of Social Services, Child Welfare Services/Case~~
17 ~~Management System. It is also the intent that training and technical~~
18 ~~assistance be provided to child death review teams and~~
19 ~~professionals in the child protection system regarding multiagency~~
20 ~~case review.~~

21 ~~(b) (1) It shall be the duty of the California State Child Death~~
22 ~~Review Council to oversee the statewide coordination and~~
23 ~~integration of state and local efforts to address fatal child abuse or~~
24 ~~neglect and to create a body of information to prevent child deaths.~~
25 ~~The Department of Justice, the State Department of Social Services,~~
26 ~~the State Department of Health Services, the California Coroner's~~
27 ~~Association, the County Welfare Directors Association, Prevent~~
28 ~~Child Abuse California, the California Homicide Investigators~~
29 ~~Association, the agency or agencies designated by the Director of~~
30 ~~Finance pursuant to Section 13820, the Inter-Agency Council on~~
31 ~~Child Abuse and Neglect/National Center on Child Fatality~~
32 ~~Review, the California Conference of Local Health Officers, the~~
33 ~~California Conference of Local Directors of Maternal, Child, and~~
34 ~~Adolescent Health, the California Conference of Local Health~~
35 ~~Department Nursing Directors, the California District Attorneys~~
36 ~~Association, and at least three regional representatives, chosen by~~
37 ~~the other members of the council, working collaboratively for the~~
38 ~~purposes of this section, shall be known as the California State~~
39 ~~Child Death Review Council. The council shall select a chairperson~~
40 ~~or cochairpersons from the members.~~

~~(2) The Department of Justice is hereby authorized to carry out the purposes of this section by coordinating council activities and working collaboratively with the agencies and organizations in paragraph (1), and may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.~~

~~(e) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state. There shall be a minimum of four meetings per calendar year.~~

~~(d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved shall engage in the following activities:~~

~~(1) Analyze and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. Copies of the report shall also be distributed to public officials in the state who deal with child abuse issues and to those agencies responsible for child death investigation in each county. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.~~

~~The state data shall include the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State Department of Social Services Child Welfare Services/Case Management System.~~

~~(2) In conjunction with the agency or agencies designated by the Director of Finance pursuant to Section 13820, coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the interagency child death investigation protocols and procedures established under Sections 11166.7 and 11166.8 to identify child deaths associated with abuse or neglect.~~

~~(e) The State Department of Health Services, in collaboration with the California State Child Death Review Council, shall design, test and implement a statewide child abuse or neglect fatality~~

1 tracking system incorporating information collected by local child
2 death review teams. The department shall:

3 (1) ~~Establish a minimum case selection criteria and review~~
4 ~~protocols of local child death review teams.~~

5 (2) ~~Develop a standard child death review form with a minimum~~
6 ~~core set of data elements to be used by local child death review~~
7 ~~teams, and collect and analyze that data.~~

8 (3) ~~Establish procedural safeguards in order to maintain~~
9 ~~appropriate confidentiality and integrity of the data.~~

10 (4) ~~Conduct annual reviews to reconcile data reported to the~~
11 ~~State Department of Health Services Vital Statistics, Department~~
12 ~~of Justice Homicide Files and Child Abuse Central Index, and the~~
13 ~~State Department of Social Services Child Welfare Services/Case~~
14 ~~Management System data systems, with data provided from local~~
15 ~~child death review teams.~~

16 (5) ~~Provide technical assistance to local child death review teams~~
17 ~~in implementing and maintaining the tracking system.~~

18 (6) ~~This subdivision shall become operative on July 1, 2000,~~
19 ~~and shall be implemented only to the extent that funds are~~
20 ~~appropriated for its purposes in the Budget Act.~~

21 (f) ~~Local child death review teams shall participate in a statewide~~
22 ~~child abuse or neglect fatalities monitoring system by:~~

23 (1) ~~Meeting the minimum standard protocols set forth by the~~
24 ~~State Department of Health Services in collaboration with the~~
25 ~~California State Child Death Review Council.~~

26 (2) ~~Using the standard data form to submit information on child~~
27 ~~abuse or neglect fatalities in a timely manner established by the~~
28 ~~State Department of Health Services.~~

29 (g) ~~The California State Child Death Review Council shall~~
30 ~~monitor the implementation of the monitoring system and~~
31 ~~incorporate the results and findings of the system and review into~~
32 ~~an annual report.~~

33 (h) ~~The Department of Justice shall direct the creation,~~
34 ~~maintenance, updating, and distribution electronically and by paper,~~
35 ~~of a statewide child death review team directory, which shall~~
36 ~~contain the names of the members of the agencies and private~~
37 ~~organizations participating under this section, and the members of~~
38 ~~local child death review teams and local liaisons to those teams.~~
39 ~~The department shall work in collaboration with members of the~~
40 ~~California State Child Death Review Council to develop a directory~~

1 of professional experts, resources, and information from relevant
2 agencies and organizations and local child death review teams,
3 and to facilitate regional working relationships among teams. The
4 Department of Justice shall maintain and update these directories
5 annually.

6 (i) ~~The agencies or private organizations participating under~~
7 ~~this section shall participate without reimbursement from the state.~~
8 ~~Costs incurred by participants for travel or per diem shall be borne~~
9 ~~by the participant agency or organization. The participants shall~~
10 ~~be responsible for collecting and compiling information to be~~
11 ~~included in the annual report. The Department of Justice shall be~~
12 ~~responsible for printing and distributing the annual report using~~
13 ~~available funds and existing resources.~~

14 (j) ~~The agency or agencies designated by the Director of Finance~~
15 ~~pursuant to Section 13820, in coordination with the State~~
16 ~~Department of Social Services, the Department of Justice, and the~~
17 ~~California State Child Death Review Council shall contract with~~
18 ~~state or nationally recognized organizations in the area of child~~
19 ~~death review to conduct statewide training and technical assistance~~
20 ~~for local child death review teams and relevant organizations;~~
21 ~~develop standardized definitions for fatal child abuse or neglect;~~
22 ~~develop protocols for the investigation of fatal child abuse or~~
23 ~~neglect, and address relevant issues such as grief and mourning;~~
24 ~~data collection, training for medical personnel in the identification~~
25 ~~of child abuse or neglect fatalities, domestic violence fatality~~
26 ~~review, and other related topics and programs. The provisions of~~
27 ~~this subdivision shall only be implemented to the extent that the~~
28 ~~agency or agencies designated by the Director of Finance pursuant~~
29 ~~to Section 13820 can absorb the costs of implementation within~~
30 ~~its current funding, or to the extent that funds are appropriated for~~
31 ~~its purposes in the Budget Act.~~

32 (k) ~~Law enforcement and child welfare agencies shall~~
33 ~~cross-report all cases of child death suspected to be related to child~~
34 ~~abuse or neglect whether or not the deceased child has any known~~
35 ~~surviving siblings.~~

36 (l) ~~County child welfare agencies shall create a record in the~~
37 ~~Child Welfare Services/Case Management System (CWS/CMS)~~
38 ~~regarding each case of child death suspected to be related to child~~
39 ~~abuse or neglect, whether or not the deceased child has any known~~
40 ~~surviving siblings. Upon notification that the death was determined~~

1 not to be related to child abuse or neglect, the child welfare agency
2 shall enter that information into the Child Welfare Services/Case
3 Management System.

4 SEC. 2. Section 10850.1 of the Welfare and Institutions Code
5 is amended to read:

6 10850.1. Notwithstanding any other provision of law, for
7 purposes of Section 10850, the activities of a multidisciplinary
8 personnel team engaged in the prevention, identification, and
9 treatment of child abuse or the abuse of elder or dependent persons
10 are activities performed in the administration of public social
11 services, and a member of the team may disclose and exchange
12 any information or writing that also is kept or maintained in
13 connection with any program of public social services or otherwise
14 designated as confidential under state law which he or she
15 reasonably believes is relevant to the prevention, identification,
16 or treatment of child abuse or the abuse of elder or dependent
17 persons to other members of the team. All discussions relative to
18 the disclosure or exchange of that information or writing during
19 team meetings are confidential and, notwithstanding any other
20 provision of law, testimony concerning these discussions is not
21 admissible in any criminal, civil, or juvenile court proceeding.

22 As used in this section, "child abuse" has the same meaning as
23 defined in Section 18951. As used in this section, "abuse of elder
24 or dependent persons" has the meaning given in Section 15610.

25 As used in this section, "multidisciplinary personnel team" means
26 any team of three or more persons, as specified in Section 15610.55
27 or 18951, the members of which are trained in the prevention,
28 identification, and treatment of child abuse or the abuse of elder
29 or dependent persons and are qualified to provide a broad range
30 of services related to child abuse or the abuse of elder or dependent
31 persons.